



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 3, 2021

Ms. Brittany Croce  
Open Records  
Williamson County  
508 South Rock Street  
Georgetown, Texas 78626

OR2021-30654

Dear Ms. Croce:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 914898.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident involving a named individual. You state you will redact dates of birth pursuant to Open Records Letter No. 2016-21706 (2016).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.108, 552.1175, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The sheriff's office states the submitted information pertains to a pending criminal prosecution. Based upon this

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<sup>1</sup> Open Records Letter No. 2016-21706 is a previous determination issued to the sheriff's office authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to basic information). Thus, with the exception of basic information, which generally must be released, the sheriff's office may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body is a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies to, in part, “a current or former member of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary service of one of those branches of the armed forces, or the Texas military forces, as that term is defined by Section 437.001[.]” *Id.* § 552.1175(a)(15). We note “family member” means a spouse, minor child, or adult child who resides in the person's home. *Cf.* Act of June 7, 2021, 87th Leg., R.S., S.B. 1134, § 9 (to be codified at Gov't Code § 552.117(c)) (providing “family member” has meaning assigned by Fin Code § 31.006(d)). Some of the basic information pertains to an individual who may be subject to section 552.1175(a)(15). Thus, to the extent the information you marked pertains to an individual who is subject to section 552.1175(a)(15) of the Government Code and the individual elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the sheriff's office must withhold the information you marked under section 552.1175(a)(15) of the Government Code.

However, we note the requestor is a representative of the United States Army's Police Brigade (the “Army”) and may have a right of access to some of the information at issue. Section 411.089(a) of the Government Code provides “[a] criminal justice agency is entitled to obtain from the [Texas Department of Public Safety (“DPS”)] any criminal history record information [(“CHRI”)] maintained by [DPS] about a person.” *See* Gov't Code § 411.089(a). In addition, section 411.087(a)(2) of the Government Code provides the following:

(a) [A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from [DPS CHRI] maintained by [DPS] that relates to another person is authorized to:

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

*Id.* § 411.087(a)(2). CHRI is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2). However, a criminal justice agency that receives CHRI from another criminal justice agency pursuant to section 411.087(a)(2) may only receive such information for a criminal justice purpose. *See id.* §§ 411.083(c), .087(b); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information). Thus, to the extent the requestor represents a “criminal justice agency,” the requestor is authorized to obtain CHRI concerning the named individual from the sheriff’s office pursuant to section 411.087(a)(2) of the Government Code, but only for a criminal justice purpose. *See* Gov’t Code §§ 411.083(c), .087(a)(2).

We understand the requestor represents a criminal justice agency as defined by section 411.082. However, we are unable to determine whether the requestor intends to use the CHRI at issue for a criminal justice purpose. A statutory right of access prevails over the Act’s general exceptions to public disclosure, including section 552.108 of the Government Code. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Thus, if the sheriff’s office determines the requestor intends to use the CHRI for a criminal justice purpose, then the sheriff’s office must release the CHRI pursuant to section 411.087(a)(2) of the Government Code. If the sheriff’s office determines the requestor does not intend to use the CHRI for a criminal justice purpose, then the sheriff’s office is not required to release the CHRI on that ground.

In summary, if the sheriff’s office determines the requestor intends to use the CHRI for a criminal justice purpose, then the sheriff’s office must release the CHRI to this requestor pursuant to section 411.087(a)(2) of the Government Code. With the exception of basic information, which generally must be released, the sheriff’s office may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the basic information, to the extent the information you marked pertains to an individual who is subject to section 552.1175(a)(15) of the Government Code and the individual elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the sheriff’s office must withhold the information you marked under section 552.1175(a)(15) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jm

Ref: ID# 914898

Enc. Submitted documents

c: Requestor  
(w/o enclosures)